NEW PAR

Interest: Cellular operator.

Substantial similarity between services:

- CMRS licensees should be considered substantially similar if they compete for the same customer base through the provision of generally substitutable services. (2)
- Services should be classified as substantially similar based upon their marketing techniques or the conduct of their customers. (3)
- All interconnected two-way voice and data services should be classified as substantially similar regardless of channel capacity, technical quality, or geographic range. (3-4)

- In view of the limits on PCS and PCS-cellular spectrum aggregation, similar spectrum limits, attribution standards, and geographical limits should be imposed on all other substantially similar CMRS providers. (15)
- There should be no limitation on a PCS, cellular, or cellular-like SMR licensee's ability to acquire narrowband PCS or paging frequencies in the area where it also provides cellular-like services because these services are not substantially similar. (16)
- A spectrum limit of 35 MHz should be imposed on all providers of cellular-like service. (16-17)
- Limits on satellite-delivered services should be applied immediately, rather than waiting for completion of international coordination for MSS space segments. (17)
- Geographical limits for spectrum caps should be based on actual service areas. (18)
- A maximum overlap of 10 percent of the service area should be established before separate (but substantially similar) CMRS allocations would be subject to a cap. (18)
- All CMRS applicants should be subject to the 5 percent ownership attribution standard currently imposed on Part 22 licensees. (18-19)

- With respect to service area overlap, the 10 percent of population standard applied to cellular-PCS should be applied to all other CMRS applicants as well. (19)
- Designated entities should not be subject to higher attribution levels or spectrum limits. (19)
- Part 90 licensees should be subject to the spectrum cap during the transition period expiring August 10, 1996. (19-20)

Technical rule change proposals:

- **Service area definitions:** In the interest of regulatory parity, the Commission should not license 800 MHz or 900 MHz SMR on a nationwide basis because there are no nationwide licenses for cellular or broadband PCS. (5-7)
- Modulation and emission requirements: Existing cellular and SMR standards shouls be maintained. (7)
- Antenna height and power limits: The Commission should require SMR and PCS licensees providing interconnected service to limit their mobile unit power to 7 watts and to comply with the base station height and power limits provided in Part 22 for cellular licensees. (7-9)

Interoperability:

- -- The Commission should not establish standards to achieve interoperability among all classes of substantially similar CMRS equipment, nor should new interoperability standards be adopted for PCS, SMR, or other substantially similar services. (9-10)
- -- Provided that cellular continues to offer equipment that is consistent with interoperability standards, cellular operators should also be permitted to offer non-interoperable equipment so that they can compete for specialized services on their cellular frequencies. (11)

Operational rule change proposals:

- Construction periods and coverage requirements:
 Cellular-like systems, including SMRs, should be
 required to adhere to construction deadlines comparable
 to those applicable to cellular licensees. (11-12)
- Loading requirements: Any elimination of the SMR loading requirements and the 40-mile rule should be tied

to technical parity rules to promote service to the public and deter spectrum warehousing. (11-12)

Permissible uses:

- The restrictions on Part 90 licensees regarding the provision of common carrier services and the purpose and duration of communications should be eliminated to the extent that such licensees provide for-profit interconnected service. (12)
- Restrictions on Part 22 licensees, which are not placed on similar Part 90 licensees, should be eliminated. (12)
- Cellular licensees should be allowed to use portions of their spectrum for non-common carrier offerings, provided that they can still meet their common carrier obligations. (12)

Station identification:

- Station identification is not necessary for the cellular industry, but is necessary for 800 MHz SMR licensees. (13)
- SMRs should be able to use a single call sign for multiple stations within a designated area. (13)

General licensee obligations:

- The Part 22 requirements concerning resale on a non-discriminatory basis should be extended to Part 90 licensees, excluding CMRS licensees seeking to resell the services of another CMRS licensee in the same geographic area. (14-15)
- The test for determining "control" applicable to Part 22 licensees should be applied to Part 90 licensees. (13-15)
- Equal employment opportunities: The Commission's EEO rules should be applied equally to all Part 90 and Part 22 licensees, regardless of size. (15)

Licensing rules and procedures:

Application fees: Application fees for Part 90 CMRS entities should be the same as application fees for Part 22 entities. (20-21)

- Regulatory fees: Regulatory fees for Part 90 CMRS entities should be the same as regulatory fees for Part 22 entities. (20-21)
- Public notice and petition to deny procedures: The Commission should apply Part 22 notice and petition to deny procedures to all CMRS applicants. (21-22)
- Conversion to CMRS status by existing Part 90 licensees:
 - -- To the extent that a particular licensee desires certainty as to its status, it could request a declaratory ruling from the Commission, rather than having the Commission classify every licensee on a case-by-case basis. (5)
 - -- A licensee providing cellular-like services that failed to notify the Commission of a change in status from a PMRS to a CMRS should be subject to Commission sanctions. (5)

MEXTEL COMMUNICATIONS, INC.

Interest: Provider of SMR and ESMR services.

- Opposes the spectrum cap proposal, which is based on a narrow view of relevant product markets and which, if imposed, would impede market integration and the migration of spectrum to its highest and most economic uses. (24)
- Urges the Commission to recognize that cellular operators enter the CMRS environment with advantages stemming from prior regulatory approaches, they have a head start over PCS and ESMR providers in terms of clear spectrum, and historical subscribership. (26)
- Because PCS and cellular are already subject to spectrum caps, the real target of the spectrum cap is the 800 MHz ESMR industry. There is no real threat of excessive spectrum aggregation by ESMR operators, which are non-dominant. Thus, imposition of a general cap applicable to ESMRs is unwarranted and would exacerbate the dominant market power of cellular. (26-27)
- The historic differences in SMR and cellular licensing (namely that each cellular operator in every MSA has 25 MHz of spectrum divisible into 416 30 kHz paired channels and that broadband PCS licensees will have licenses of 30 or 10 MHz on a BTA, an MTA and potentially a nationwide basis whereas 800 MHz SMR operators are assigned either one or five 25 kHz channels at a time that must be pieced together) make it difficult to calculate spectrum allocation, assignment, and licensing parity between cellular and ESMR services. (28-31)
- If a spectrum cap is imposed on ESMR licensees, the FCC must evaluate the equivalent yield on non-exclusive, non-contiguous "encumbered" SMR spectrum versus that on contiguous, exclusive cellular licensing assignments. (31-32)
- Nextel recommends that, if the FCC "inappropriately" imposes a 40 MHz CMRS spectrum cap on ESMR licensees, these licensees never be "charged" with greater than 5 MHz of ESMR spectrum in a given service area -- even if the ESMR licensee has the right to use a total number of channels at some sites that calculate to greater than 5

MHz -- as long as SMR spectrum is licensed on a stationby-station basis. (32-34).

- If a spectrum cap is imposed, Nextel favors application on an MTA basis because it will be easier to administer than smaller alternatives and provides a realistic referent for assessing spectrum aggregation. (36)
- Nextel favors attributing CMRS ownership interests of 40 percent or more to the holder of ESMR interests. This is consistent with Nextel's block license retuning proposal, which would result in ESMRs having 40 percent of the spectrum that cellular licensees have, and takes into account the non-dominant nature of ESMRs. (37 & n.50)
- 900 MHz SMR spectrum should not be included in the general spectrum cap because this spectrum has only a 12.5 kHz bandwidth and often 900 MHz operations are not functionally equivalent to competing CMRS services. (38)
- Suggests that reclassified Part 90 carriers entitled to the statutory transition period be given a grace period of six months after August 10, 1996, to divest of CMRS interests necessary in order to comply with the cap. (39)
- All CMRS licensees should be allowed to bid for CMRS spectrum without first having to divest. (39)

Technical rule change proposals:

- Channel assignment rules:
 - -- To conform the licensing schemes of cellular, PCS and ESMRs, Nextel suggests that the Commission establish a contiguous 10 MHz block of 200 SMR channels -- channels 401 to 600 -- for ESMR systems on an exclusive-use basis. (11)
 - -- To clear occupied channels for ESMR use, existing traditional analog SMR stations in the 401 to 600 band would be "retuned," at the expense of the ESMR operator, to operate on the remaining channels in the 800 MHz private land mobile allocation. (11-12)
 - -- The 200 channel block should not be considered a limit on the amount of SMR spectrum an ESMR operator can hold. (12)
 - -- To ensure that ESMR licensing is comparable to other CMRS licensing, Nextel urges the FCC to

delineate geographic areas based on MTAs within which ESMR providers have exclusive use of the assigned block of channels. (15)

- -- As a framework for implementation of MTA-defined ESMR service areas, Nextel recommends: (1) that initial eligibility is limited to licensees with an ESMR (wide-area) grant or an application pending in the MTA as of August 10, 1994; (2) if there is more than one qualified ESMR licensee, the FCC should initiate a 3-month voluntary consultation period during which the parties negotiate a geographic solution suitable to their needs; (3) in the event of an impasse, the Commission should impose a settlement dividing the ESMR block based on a sixmonth average of the number of revenue producing mobiles each operator has in actual operation in the MTA. (17-19)
- -- After allocation of the ESMR block channels, the ESMR licensee(s) should be required to initiate retuning of existing traditional SMR providers in the MTA off of the ESMR block (channels 401-600) and onto the remaining non-public safety channels (i.e., those below channel 401). (19)
- -- If licensees are unable to negotiate a retuning arrangement, a mandatory retuning process should be imposed so that all retuning is completed within at least one year from the issuance of the block ESMR license but no later than August 10, 1996. (19-20)
- -- Licensing within the ESMR block should be pursuant to a single blanket license as is the case with cellular. This would permit the Commission to eliminate the 40-mile rule, loading, and station identification requirements as applied to ESMR licensees. (20-21)
- Antenna height and transmitter power: Urges the Commission to retain the power and height flexibility provided in the SMR rules, and notes that similar flexibility has been extended to PCS operators. (41-42)
- Modulation and emission mask requirements:
 - -- Agrees with the FCC that changes in cellular and SMR emission masks are not practical where adjacent channel SMR stations are assigned to other operators. (40)

- -- However, under Nextel's exclusive block licensing scheme, ESMRs could and should be allowed a wider emission mask. (40)
- -- The flexibility currently afforded to 800 MHz widearea SMR operators to use digital or analog transmissions should be retained. (40-41)

Operational rule change proposals:

- Construction periods and coverage requirements:
 Supports application of coverage requirements similar to
 PCS rules in the suggested block licensing ESMR scheme.
 (43-44)
- End user eligibility: Supports proposal to eliminate Part 90 restrictions. (49)
- Permissible uses: Supports proposal to eliminate Part 90 prohibition on common carrier service as applied to SMRs, and urges elimination of restrictions on purposes and duration of messages. (50)
- Equal employment opportunities: Supports application of EEO rules to reclassified Part 90 providers at the end of the mandated transition period. (43)

Licensing rules and procedures:

• Transfers of control and assignments: ESMR operators should be subject to rules comparable to cellular, which does not restrict transfers if an operator has not constructed one or more of the channels in a market.

(45)

Other:

- Urges the FCC to identify and assign a specific group of control channels for ESMR systems comparable to the control channels set aside in cellular licensing assignments. (42-43)
- Claims that the FCC's proposed revised application fee would impose much greater costs on ESMR carriers with less spectrum than other carriers, and suggests that block ESMR licensing would cure this defect. Pending adoption of this proposal, Nextel urges the FCC to retain the \$35.00 fee per application for SMR and ESMR applicants. (48)
- The proposed regulatory fee of \$60.00 per thousand subscribers should be phased in over time as applied to

ESMRs in order to mitigate the disproportionate impact. (49)

 The end user licensing requirements still applicable to some SMRs should be eliminated. (50)

NYNEX CORPORATION

Interest: Regional Bell Operating Company.

Substantial similarity between services:

- Agrees with the Commission's proposal to base the determination of "substantial similarity" on whether the CMRS providers in question compete to meet similar customer demands. (3)
- Also agrees with the Commission's conclusion that widearea SMRS and cellular service are substantially similar and should be regulated on a comparable basis. (3)

- Opposes the spectrum cap proposal, which is premature as there is no evidence that entities holding large amounts of spectrum have or will exercise undue market power to limit competition. (4)
- Moreover, the proposed 40 MHz cap is not rationally related to the purported underlying concerns and fails to recognize that a 40 MHz cap in large markets may not be appropriate in view of the number and size of competitors and intensity of competition. (4-5)
- The cap may exclude existing operators from participating in the development of new services, thereby delaying provision of these services to the public. (5)
- The broad cap proposed by the Commission will stifle innovation and creativity in the marketplace by discouraging carriers from experimenting with new wireless services. (5)
- If the Commission imposes a cap, it should do so based on a specific analysis of the competitive conditions existing in each market, and should consider establishing caps only on future services as part of those rule making proceedings. (5-6)
- The Commission should also ensure that any cap it imposes applies to all competing CMRS providers on an equitable basis, not just to cellular carriers or LECS.
 (6)

Technical rule change proposals:

• Co-channel interference, modulation and emission, interoperability: For reasons of regulatory parity and service quality, Part 90 licensees should be subject to the same co-channel interference, modulation and emission, and interoperability requirements as cellular carriers. (3)

Operational rule change proposals:

• Construction periods and loading requirements: Agrees that Part 90 mobile service licensees should be required to construct their facilities within 12 months, except where unexpected difficulties (e.g., zoning) arise, and that loading requirements should be eliminated. (4)

ONECOMM CORPORATION

Interest: Provider of integrated wireless communications services that is building and implementing an ESMR network.

Substantial similarity between services:

The ability of SMR and ESMR operators to offer services that are substantially similar to those of Part 22, PCS, and other emerging CMRS providers will be seriously impaired if the licensing rules for 800 MHz SMR and ESMR carriers are not revised to ensure regulatory consistency between these groups. (3-4)

- Believes that the PCS cap more than adequately addresses the Commission's concerns about a single carrier's ability to capture excessive amounts of the PCS spectrum, and urges the Commission to refrain from adopting additional CMRS spectrum caps. (8-11)
- An across-the-board spectrum cap would have enormous administrative costs because the Commission would have to engage in a laborious examination of product and geographic markets to determine the extent of competition between the variety of CMRS services. Such an examination would also hinder the development and marketing of new products and services. (8, 10)
- The Commission's underlying assumption that a 40 MHz spectrum cap is appropriate for all CMRS providers regardless of a potential licensee's market power in any given service area is incorrect. The Commission must first develop a record on the relative competitive success of licensees prior to imposing a spectrum cap. (9)
- The imposition of an across-the-board spectrum cap on clearly non-dominant CMRS licensees will only hinder their ability to further the Commission's goals of encouraging additional competition by impairing the ability of emerging competitors to obtain financing and build relationships with strategic partners. (11)
- If an across-the-board spectrum cap is imposed, it should not apply to existing SMR providers until August 10, 1996. By then, new SMR licensing rules and wide-area SMR systems will be established, making it easier to calculate the amount of spectrum an SMR service is actually using. (11-13)

Technical rule change proposals:

- Service area definitions/transition provisions:
 - -- 800 MHz SMR licensees whose services are substantially similar to Part 22 services require geographically-defined licenses to allow them the flexibility to develop wide-area multi-channel operating systems in a similar manner to Part 22 licensees. (4-5)
 - -- Allowing geographically-defined licenses for 800 MHz SMR licensees will minimize problems of co-channel and adjacent channel interference and will streamline the cumbersome licensing procedures that are currently in place for SMRs and ESMRs who wish to create wide-area operating systems. (4-5)
 - -- The Commission must coordinate technical, operational, and license application rule changes for 800 MHz SMR and ESMR systems with wide-area licensing rule changes. (5-7)
 - The Commission must develop an independent record based on the current realities of the SMR and ESMR industries prior to adopting the changes necessary to create regulatory parity between 800 MHz SMR and ESMR providers and Part 22 providers. (6)
 - -- Any relicensing scheme for SMR and ESMR licensees must provide a mechanism for them to configure their portion of the 800 MHz channels in a way that maximizes consistency with other types of CMRS systems and provides incentives for efficient use of the spectrum. (6)

OMNIPOINT

Interest: Equipment manufacturer and new PCS entrant.

Licensing rules and procedures:

- Comments on new application form:
 - -- Urges a blanket licensing approach for PCS, arguing that the form would require tens of thousands of site-specific information showings and an excessive amount of technical data (e.g., site coordinates, HAAT, AGL, ERP, ERP in eight cardinal directions, Part 17 analyses) that would delay service and add uncertainty to licensing. (1, 6-8)
 - -- Notes that PCS rules state site-specific information is not required and do not require the FCC to be a proactive monitor of interference concerns. (2-3)
 - -- Notes that blanket licensing has been adopted for other services, such as IVDS, MSS (NVNG). (4)

PAGEMART, INC.

Interest: Nationwide paging company, leader in implementation of advanced technologies such as narrowband PCS.

creating comparable regulatory requirements: Submits that the FCC can achieve its pro-competitive goals and the statutory obligation of harmonizing mobile service regulation without imposing unnecessary regulatory burdens by using its discretion to avoid imposing regulation where no public interest justification exists. (2-3)

- The spectrum cap proposal is unwarranted and would place a concrete limit on the potential growth of individual companies, forcing the CMRS industry to make investment decisions based on government regulation rather than consumer demand. (4)
- The Commission already has sufficient tools under Sections 309(a) and 310(b) of the Communications Act to prevent anti-competitive aggregation of spectrum. (4-5)
- If spectrum caps are imposed at all, they should only apply to those mobile services that are the least competitive, i.e., cellular, broadband PCS, and the SMRS. (5-6)
- The FCC has already responded to the potential competitive threat in its broadband allocations by imposing caps in the broadband PCS and PCS/cellular contexts. The need for further restrictions has not been demonstrated, even in the broadband context. (6)
- In contrast to the existing broadband services, other services, such as paging, have operated under different licensing policies and are fiercely competitive, obviating the likelihood of market dominance and the need for spectrum caps. (6-7)
- If a spectrum cap is imposed, it is essential that licensees be permitted to retain all of their existing facilities. Any failure to grandfather existing licenses would be grossly inequitable. (8)
- Grandfathered licenses should be transferable without any divestiture requirements, and the benefits of grandfathering should attach to the license itself, not just the present licensee. (8)

- The grandfathering of existing licenses should include the right to fill in holes in existing service areas and should accommodate system expansion. (9)
- Any spectrum cap must also exclude licenses that are acquired during the upcoming PCS auctions. Bidders should not be subjected to the uncertainty of not knowing whether they will be able to retain their licenses. (10)
- Retroactive application of the cap on PCS spectrum may depress substantially the value of the spectrum to be auctioned. (10)

Licensing rules and procedures:

- Application fees:
 - -- PageMart opposes the Commission's proposal to increase all CMRS application fees to \$230, on the ground that the proposal is neither necessary nor practical. (11)
 - -- The proposal would cost Part 90 CMRS providers nearly twice as much as they currently pay, for a process that may take more than four times as long as it does now to complete. (12)
 - -- If complete "regulatory symmetry" is necessary in the area of application fees, it would be more equitable and efficient to apply the existing Part 90 system to Part 22 licensees than vice-versa. (12)
- Regulatory fees: PageMart also opposes the proposal to impose the same fee of \$60 per 1000 subscribers on all CMRS licensees. The Commission has not established that this fee bears any relationship to the agency's costs, as applied to Part 90 services, nor has it indicated how its services would change, or how the increased costs would be reasonably related to the benefits provided to the payor. (13-14)

PAGING NETWORK, INC. ("PAGENET")

Interest: Private and common carrier paging operator.

Substantial similarity between services: PageNet supports the Commission's proposal to focus on end user perception, and the resultant conclusion that paging services offered on 929-930 MHz and 932 MHz are substantially similar. (12)

Creating comparable regulatory requirements:

Suggests that, in assessing its rules, the Commission use an analytical framework aimed at: (1) minimizing regulatory burdens; (2) balancing costs and benefits; (3) adopting rules that minimize the potential for litigation or administrative delay; (4) speeding the provision of new services to the public; and (5) adopting rules that allow licensees to minimize costs. (4-5)

Spectrum aggregation caps:

- Claims that there is no justification for imposing a spectrum limitation on individual licensees, and agrees with PCIA that there are no public benefits to be served by a spectrum cap that are not already served by antitrust laws. (47)
- A spectrum cap is unnecessary in the paging context because the Commission has already found paging to be highly competitive, the number of competitors has increased in local markets, and new technological advances are substitutable for paging services. (48)

Technical rule change proposals:

- Channel assignment rules: It is unnecessary to define a "reliable service area" concept in the context of PCS regulation. (12-13)
- Service area definitions/transition provisions:
 - -- PageNet strongly supports the adoption of market area licensing for all 929 and 931 MHz paging systems. (10-11, 14)
 - -- Adoption of an FCC-defined market area licensing scheme will best address the various needs of the public and reduce wide-area operation costs. (14-15)

- -- To create a stable and predictable environment for exclusivity, PageNet supports defining geographic limits of regional and wide-area systems along state lines for 929 MHz frequencies, and along MTA borders for 931 MHz frequencies. (16)
- To transition to the market area overlay for Part 22, PageNet suggests that existing applicants and licensees be given approximately 18 months to build some minimum number of transmitters (i.e., 25-30) without being subject to competing applications. Market-area licenses would only be given to licensees that meet this requirement. (17)
- -- If more than one incumbent is licensed in the MTA, they would be entitled to expand their service areas based on 70-mile protection criteria on a first-come, first-served basis; no new applicants would be authorized unless the incumbents failed to satisfy their build-out requirements. (17-18)

• Co-channel interference criteria:

- -- The issue of comparable co-channel interference standards must be addressed in the context of the overall licensing scheme. (19)
- -- With Commission-defined service areas, PageNet would support either of the following, which would assure maximum flexibility for licensees in building their systems and serving market demands in border areas:
 - (1) giving licensees a greater number of station classes from which to choose, by adding classes of stations with protected service areas of less than 20 miles; or more preferably
 - (2) using a mathematical formula such that, at a given distance from the border, a licensee could determine the maximum allowable height and power that would provide the appropriate level of protection along the border while preserving a maximum level of service in the licensed area. (19-20)
- Antenna height and power limits: Supports allowing all paging base station facilities to operate at a maximum power of 3500 watts ERP. (22-23)
- Modulation and emission requirements: The applicable rules in Parts 22 and 90 should be broadened to allow

licensees to stack frequencies and use the spectrum between bands, provided that protection at band edges is maintained. (20-21)

Interoperability: There is no basis for imposing interoperability requirements on private or common carrier paging services, nor is there a need to require all pagers to operate on all paging frequencies. (24-25)

Operational rule change proposals:

- Construction periods and coverage requirements:
 - -- Multi-phase construction periods are fully justified for multi-transmitter systems with a minimum of 30 transmitters, and should be adopted for paging systems at 929 and 931 MHz. A 12 month construction period should apply to local systems. (25-26)
 - -- With regard to the FCC's proposal to require licensees to commence service by the end of the construction period, PageNet suggests that, because carriers must first market their services to obtain customers, they should be deemed to have met this requirement if their facilities are constructed and interconnected to the public switched telephone network. (26)
- Loading requirements/end user requirements: Supports the Commission's proposals to eliminate both. (27)
- Permissible Uses:
 - -- Supports the proposals to eliminate the restrictions on: (1) Part 90 paging licensees' provision of common carrier services; (2) permissible communications under Part 90; and (3) message duration under Part 90. (27)
 - -- Also supports granting licensees flexibility to use their frequencies to transmit incidental services on private carrier paging and common carrier paging systems. (28)
- Station identification: Supports retention of station identification rules, but suggests revision of both Parts 22 and 90 to require only that licensees transmit their station identifications once an hour within plus or minus 5 minutes of the hour. Digitally transmitted call signs should be permitted and are preferred, and

unambiguous specifications should be provided by the FCC. (29)

Licensing rules and procedures:

- Qualifying information: Suggests that the Form 600 be clarified to state that partnerships are subject to alien ownership restrictions and to limit the question regarding the denial of applications (question 34) to situations involving misconduct. (31-32)
- Transfers of control and assignments: Urges the Commission to: (1) adopt a single form for all CMRS transfer of control and assignment applications; (2) eliminate the filing of technical information currently required of assignees under Part 90 and the requirement that Part 22 applicants file copies of all authorizations being transferred or assigned; and (3) eliminate the disparity between Part 22 and Part 90 applications with regard to qualifying information. (30-31)
- Public notice and petition to deny procedures: To avoid slowing the processing of paging applications, PageNet suggests that the Commission start the frequency coordination process upon receipt of the application rather than waiting for expiration of the public notice period. (33)

Mutually exclusive applications:

- -- Opposes the proposal to convert to filing windows for "initial" paging applications, which would include most modification applications, because the filing of competing applications during the window will seriously delay the provision and growth of service. (34-35)
- -- Favors the proposals in the Part 22 Rewrite to convert to first-come, first-served licensing. (34-35, 38-39)
- -- Supports the use of auctions where new frequencies are being allocated, such as in PCS, but maintains that in all other situations, a first-come, first-served frequency-specific application procedure should be used, coupled with wide-area licensing, to minimize delay and reduce regulatory burdens. (36-37)

• Amendment of applications and license modifications:

- -- Section 22.23(c)(2), which classifies as major any extension of the station service area by more than one mile, should be narrowed to a standard more comparable to that used in the broadcast context (there, a major amendment is one that would result in a 50 percent change in the proposed service area). (41)
- -- Similarly, PageNet opposes the proposal to treat as an initial application any modification that would locate a transmitter more than 2 kilometers from an existing transmitter on that frequency. (41)

Conditional and special temporary authority:

- -- Urges the Commission to allow all 900 MHz applicants to undertake conditional construction at any time, provided that they comply with FAA and environmental restrictions. (42)
- -- As alternatives to permit flexible pre-grant operation the FCC could: (1) apply the conditional permit procedures of § 90.159(b)-(h) to all 900 MHz paging operations; (2) adopt the approach taken by the Microwave Branch in granting Blanket Special Temporary Authority ("BSTA") to common carrier point-to-point applicants that are parent companies or controlling entities. (43-44)
- License term and renewal expectancies: Supports both the proposal to extend the license term of all CMRS licensees to ten years, and the adoption of a unified renewal expectancy standard to be applied to all CMRS licensees. (44)

Transfers of control and assignments:

- -- Supports free transferability in the paging context, where there are few opportunities for trafficking. (45-46)
- -- Even if the FCC decides to discourage the transfer of unconstructed facilities generally, it should expand the enumerated exceptions to include the transfer of assignment of entire companies with some unbuilt licenses. (46)
- -- Also in the above circumstances, the acquiring party should be permitted to amend the other

parties' pending applications to substitute the acquiring party as the applicant. (47)

Other: Supports changes in the existing Part 22 and 90 rules and practices concerning standby transmitter use. As long as standby facilities are operated under the same exact parameters as the licensed, primary facility, CMRS providers should be permitted to use standby facilities without having to obtain a separate station authorization. (29)

PCC MANAGEMENT CORP. ("PCC")

Interest: PCC is in the business of providing construction and management services to various CMRS licensees. particularly 800 MHz SMRs.

Substantial similarities between services: PCC contends that 800 MHz SMR service, as historically licensed, is not substantially similar to any Part 22 service because it is licensed in a fragmented manner and has sporadic geographic coverage. (2-3)

Technical rule change proposals:

- Channel assignment rules:
 - Strongly supports permitting 800 MHz SMR licensees to designate the areas in which they intend to operate. (4-5)
 - Agrees with the Commission's analysis that the pattern of channel sharing at 800 MHz prevents near-insurmountable problems in converting those channels to exclusive use by regulation. (5)
 - Supports the regional licensing of 220 MHz channels. (5-6)
- Co-channel interference protection criteria, emission masks, antenna height and power limits, interoperability:
 - Generally supports the Commission's proposals. (6)
 - Supports the proposal to regulate interference of area-based ESMRs (if adopted) at the licensed boundary of a wide-area service only if the licensee has exclusive use of its channels. (6-7)
 - Would favor interoperability within bands after passage of a five year period. (7-8)

Operational rule change proposals:

Construction periods and coverage requirements: Favors a 12-month construction period for 800 MHz SMRs, with an extended implementation schedule available to complex systems (e.g., those involving 100 or more channels). (8-9)

- **Station identification:** Supports permitting a single call sign to be transmitted by an integrated system, optionally in a digital format. (9)
- Loading requirements: Supports elimination of the 40-mile rule for all SMR systems in all bands. (9-10)

Licensing rules and procedures:

- Application fees: Opposes imposing the common carrier fees to all Part 90 CMRS services. The increase would be prohibitive for small SMRs and is contrary to Section 8 of the Communications Act and the Budget Act, which permits the reconciliation only of technical rules. (10-13)
- Amendment of applications and license modifications:
 - -- The Commission should revise its proposed definition for major CMRS modifications in the following respects:
 - -- First, the Part 22 criteria are irrelevant for area-licensed services such as cellular, PCS, regional and national paging, and nationwide 220 MHz. The Commission should propose a different set of criteria for these services. (15)
 - -- Use of a 2-kilometer radius (or the 1.6/2.6 kilometer radius) to determine when an application is a license modification is too small and may work a hardship on small businesses that cannot maintain the necessary distance. (15-16)
 - -- In view of the above, PCC suggests that the Commission use a distance roughly twice the expected reliable service contour for a base station licensed at maximum height and power as the maximum distance under which a new application is deemed to be modifying an existing license. (16)
 - -- Major-amendment and license-modification criteria should differ in the context of wide-area systems. For amendments, the Commission should use a relocation distance of 2 or 2.6 kilometers; for modifications, which will appear on public notice, the Commission need only be concerned that the existing and proposed sites can be operated as an integrated system (i.e., the service contours can touch). (16-17)

- -- For two-way stations, the Commission's "same frequency" criterion (that applications proposing locations 2 kilometers or less from a previously authorized and fully operational base station licensed to the same licensee on the same frequency is not a major modification) should be relaxed to state "a frequency in the same frequency band which can be used for the same purposes." (17)
- -- The "same licensee" criterion is also too rigid and should be modified to cover stations that are operated by licensees under substantially common ownership or as part of an integrated system. (17)
- -- The Part 22 exceptions should all be carried forward. (17-18)
- -- The Commission should continue its existing Part 22 practice of permitting two applicants to consent to harmful electrical interference that otherwise would render their applications mutually exclusive. (18)
- Conditional and special temporary authority: As a transition matter, the Commission should continue to extend existing Part 90 STAs, even for licensees immediately classified as CMRS. (24)
- Transfers of control and assignments:
 - -- For all existing CMRS providers (i.e., non-PCS), the Commission should adopt rules patterned after the Part 22 requirements. (19)
 - -- Specifically, 47 C.F.R. § 22.40(a) should apply to all existing CMRS systems, and the policies in Section 22.40(b)(1) should apply to ESMRs and all other wide-area CMRS systems. (19-20)

Other: The Commission should delay the effective date of its CMRS transition rules until it resolves the issues raised in the petitions for reconsideration of its related rule making proceedings. (20-22)